

**EMPLOYMENT APPEALS TRIBUNAL**

CLAIM(S) OF:  
EMPLOYEE - *claimant*

CASE NO.  
UD913/2011

RP1270/2011

Against

EMPLOYER - *respondent*

under

**REDUNDANCY PAYMENTS ACTS, 1967 TO 2007  
UNFAIR DISMISSALS ACTS, 1977 TO 2007**

I certify that the Tribunal  
(Division of Tribunal)

Chairman: Ms C. Egan B L

Members: Mr. W. O'Carroll  
Ms H. Henry

heard this claim at Galway on 17th January 2013

Representation:  
\_\_\_\_\_

Claimant(s) : REP

Respondent(s) : No appearance by or on behalf of respondent

**Claimant's Case**

The claimant gave evidence that he commenced working for the respondent in March 2003. He was employed as a truck driver and operated from the respondent's base located approximately 8 miles from Galway city. He generally covered the Galway city and Connemara regions. The Tribunal heard evidence that the respondent moved its base from Galway to Roscommon in November 2010. The claimant was requested to drive to Roscommon from his Galway city home each morning and collect his truck to do his deliveries. He would have to return the truck to Roscommon each evening and collect his own private vehicle to return home. If he was unwilling to do this he was told that he would have to resign. He gave evidence that he was unwilling to do this as it was not feasible for him to do so and he resigned from his employment on 24 December 2010. The Tribunal heard further evidence from the claimant in relation to his efforts to mitigate his loss since the termination of his employment.

## **Determination**

The Tribunal is satisfied based on the uncontested evidence of the claimant that he was constructively dismissed from his employment. The Tribunal is of the view that the respondent acted unreasonably under the circumstances in giving the ultimatum to either “resign or move”. Accordingly the Tribunal, having assessed the losses of the claimant awards him the sum of €9731.25 under the Unfair Dismissals Acts 1977 to 2007.

The claim under the Redundancy Payments Acts 1967 to 2007 fails and is hereby dismissed.

Sealed with the Seal of the

Employment Appeals Tribunal

This \_\_\_\_\_

(Sgd.) \_\_\_\_\_  
(CHAIRMAN)